

# Fiscal Services Division Legislative Services Agency Fiscal Note

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HF 2036 - Guardian Ad Litem for the Unborn (LSB 5410 YH)  
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Fiscal Note Version — New  
Requested by Representative Mark Smith

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## **Description**

House File 2036 establishes a legal process for an adult woman seeking an abortion to file a petition in the district court in the county of the woman's residence to request approval for an abortion. If a physician performs an abortion without a certified copy of the court's decision, the physician is guilty of a serious misdemeanor.

## **Assumptions**

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other correction policies and practices will not change over the projection period.
3. The law will become effective July 1, 2004. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
4. Between 1998 and 2003, there have been no convictions for violations of partial birth abortion provisions (Section 707.8A, Code of Iowa), duty to preserve the life of a fetus (Section 707.10, Code of Iowa), or feticide (Section 707.7, Code of Iowa).
5. In 1999, there were two convictions regarding murder of a fetus aborted alive (Section 707.9, Code of Iowa) but it is unknown whether a physician was the offender.
6. Based on the number of convictions under current law, it is estimated that the proposed new law will have few convictions and that physicians would comply with the law.
7. In FY 2003, the incarceration rate for Class C violent offenses was 74.0%.
8. In FY 2003, the average time served in prison for Class C violent offenders was four years.
9. House File 2036 requires the Judicial Branch to appoint a guardian ad litem to represent the unborn fetus. The cost for this provision cannot be determined due to insufficient information. One court case involving a guardian ad litem being assigned to an unborn fetus would result in about three hours of court time and would include a district court judge, court reporter, and a court attendant and two hours of clerk of court time. The average cost per case would be about \$375.
10. A three-justice panel would hear the appeal without oral argument. The hearing time per case would be approximately four hours per justice and six hours for a screening attorney to assist the court.
11. The following is a chart showing pregnancy terminations for calendar year 1999 to calendar year 2002.

<u>Calendar Year</u>	<u>Age 18 and Over Pregnancy Terminations</u>
2002	5,783
2001	5,298
2000	5,555
1999	5,618

12. Comparing 1999 to 2002, the number of pregnancy terminations increased by 165 cases or 3.0%. The fiscal impact assumes a 3.0% increase and decrease on 5,783 pregnancy terminations.

### **Correctional Impact**

House File 2036 increases the likelihood of a correctional impact for feticide convictions; however, there is no readily available information to determine the impact.

### **Fiscal Impact**

#### **Termination of Pregnancy Hearings**

The estimated General Fund impact of HF 2036 to the Judicial Branch is approximately \$2.1 million annually. This estimate does not include the reimbursement costs for the guardian ad litem (impact cannot be determined).

In addition to the above estimate, the Bill also requires a three-justice panel to hear appeals, but due to insufficient information the fiscal impact cannot be determined. The cost for one appeal would be approximately \$1,000 per case.

#### **Feticide**

The number of feticide convictions cannot be determined due to insufficient information. The maximum cost for one feticide case resulting in a conviction is approximately \$23,000 over a five and one-half year period.

#### **Criminal Justice System Costs**

Judicial Branch	\$ 1,500
Indigent Defense	1,500
Department of Corrections	19,000
Community-Based Corrections	1,000
	<u>\$ 23,000</u>

### **Sources**

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Judicial Branch

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Dennis C Prouty

March 1, 2004

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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